IN THE HIGH COURT OF HIMACHAL PRADESH
SHIMLA

CWP No.1216 of 2006

Date of decision: 13.12.2006

Des Raj & another	……	Petitioner
Versus		
Financial Commissioner (Appeals) & others	…..	Respondents

Coram:

The Hon'ble Mr.Justice Deepak Gupta, J.

The Hon'ble Mr Justice S S Thakur,J.

Whether approved for reporting ?[1]

For the Petitioners: Mr Anuj Nag,Advocate.

For the Respondents No.1 to 3 : Mr M S Chandel, Advocate General with Mr J K Verma, Deputy Advocate General.

Deepak Gupta, J. (Oral)

This petition is directed against the order of the Financial Commissioner (Appeals) Himachal Pradesh, passed in Revision Petitions No.158/1 & 159/01 dated 19th September, 2006.

The private respondents in this writ petition had filed two applications before the Assistant Collector, Ist grade, Jawali for partition of their joint holdings. The Assistant Collector Ist Grade sanctioned the mode of

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[1] ***Whether the reporters of Local Papers may be allowed to see the judgment ?***

partition on 7th February, 1995 and thereafter the Field Revenue Agency did the partition on the spot. Petitioner Des Raj, herein, filed an application for arraying him as party in the partition proceedings but the Assistant Collector, Ist Grade, rejected his application on 7th April, 1994. Petitioner Des Raj challenged the order dated 7th April, 1994 by way of filing an appeal before the Collector. The appeal of the petitioner was accepted and the matter was remanded to the Assistant Collector, Ist Grade and thereafter mode of partition was again sanctioned in the presence of the counsel for the parties and final partition was sanctioned on 19th March,1998. *Sanad Taksim* was also prepared on 20th April, 1998. The petitioners thereafter challenged the order dated 19th March, 1998 before the Sub Divisional Officer, exercising the powers of Collector, Jawali (Kangra), who dismissed the appeal. The orders passed by the Collector, Jawali, were challenged in two revision petitions before the Deputy Commissioner, Kangra, who also rejected the revision petitions vide common order dated 29th October, 2001.

In the two revision petitions, which have been disposed of by the Financial

Commissioner, one of the grounds taken while disposing of the petitions is that there are concurrent findings of fact of the courts below, which the Financial Commissioner did not want to interfere.

The main contention of the Mr Nag, learned counsel for the petitioners is that the powers of the Financial Commissioner under Section 17 of the H P Land Revenue Act (hereinafter to be referred as "the Act") are very wide and it was incumbent upon the Financial Commissioner to examine the case on facts also. In this behalf he has relied upon a judgment of this Court in *Hira Singh Thakur vs Bali Ram and others*, 1996 Vol(2) 299 Shimla Law Cases. No doubt the Financial Commissioner has very wide powers under Section 17 of the Act. However, these powers are revisional powers and can never be equated with the Appellate powers. We are also alive to the situation that the revisions filed before the Financial Commissioner were second revisions. It is for the authority, dealing with the matter, to decide whether it wants to interfere with the concurrent findings of fact or not. It is not incumbent for the said authority to examine the facts in detail while exercising its

revisional jurisdiction. We find no error in the order of the Financial Commissioner. There is no merit in the writ petition. Dismissed.

CMPs No.1888 & 1889 of 2006.

In view of the dismissal of the main petition, these applications do not survive. Hence, the same are dismissed.

(Deepak Gupta),J.

December 13, 2006 (S S Thakur),J.
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